UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EIGHT MILE STYLE, LLC, and MARTIN AFFILIATED, LLC,

Plaintiffs,

vs.

APPLE COMPUTER, INC. and AFTERMATH RECORDS d/b/a AFTERMATH ENTERTAINMENT

Defendant.

Case No. 2:07-cv-13164
Hon. Anna Diggs Taylor
Magistrate Judge Donald A. Scheer

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DECLARATION OF RICHARD S. BUSCH IN SUPPORT OF PLAINTIFFS' MOTION TO AMEND THE COMPLAINT

I, Richard S. Busch, having personal knowledge of the facts contained in this declaration, state as follows:

1. I am an attorney and partner in the law firm of King & Ballow, which represents plaintiffs Eight Mile Style, LLC and Martin Affiliated, LLC ("Plaintiffs") in the above-entitled action. I am familiar with the files in this litigation.

2. About 13 of the 15 fact depositions that Plaintiffs have taken in this case were of individuals currently or previously employed by Aftermath. Those depositions generally sought information from and concerning not Apple, but Aftermath, including the drafting of the recording agreements between Eminem and Aftermath, Aftermath's understanding of the terms

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of those agreements, and Aftermath's practices relating to obtaining mechanical and digital licenses from Plaintiffs and other publishers.

3. Plaintiffs have deposed only two witnesses from Apple in this matter, Mr. Cue and Mr. Leung. Mr. Leung's deposition concerned only issues related to Apple's profits, that is, Plaintiffs' damages.

4. Aftermath has produced one set of documents for both this case and the case captioned *F.B.T. Productions, LLC, et al. v. Aftermath Records d/b/a Aftermath Entertainment, et al.*, No. 07-03314 PSG (MANx), which took place in Federal Court in the Central District of California. In total, Aftermath has produced over 64,000 pages of documents in the two cases, and while the majority of this related to the *F.B.T.* case only, Aftermath has still produced over 20,000 pages of documents relating to this case. Apple, by contrast, has produced just under 3,000 pages of documents, of which all but 375 pages relate to damages from a single song. Most of those 375 pages also relate to Plaintiffs damages.

5. Plaintiffs and Defendants served written discovery requests on February 16, 2009 and February 26, 2009 respectively.

6. Several days after serving these discovery requests on Defendants, I directed my associate to contact Defendants to confirm that both Aftermath and Apple would supplement their responses to the previously served document requests and interrogatories and produce documents relating to Plaintiffs' damages. A true and correct copy of the email my associate sent on February 23, 2009 is attached hereto as **Exhibit A**.

7. On May 8, 2009, I received a letter from Defendants supplementing their responses to Plaintiffs' first sets of interrogatories and document requests to address the discovery requests related to damages for which they had previously refused to produce

documents. A true and correct copy of Defendants' May 8, 2009 letter is attached hereto as **Exhibit B.**

8. Defendants' May 8, 2009 letter (Exhibit B) was the first time they ever implied that Plaintiffs could not recover damages against Aftermath. Less than a week after sending Plaintiffs that letter, Aftermath produced profit and loss statements for 44 compositions, along with related "back up" documentation.

9. At trial, Plaintiffs would present evidence as to their damages from Aftermath by calling Gary Cohen, Plaintiffs' expert witness on damages, and the same witness who will testify concerning Plaintiffs' damages from Apple.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th day of August, 2009.

/s/ Richard S. Busch
Richard Busch

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served via the Court's Electronic Filing System:

Counsel	On behalf of
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this 6th day of August 2009.

s/ Richard S. Busch